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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,511	08/31/2001	Misato Mochizuki	520.40601X00	8181

24956 7590 06/24/2005

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EXAMINER

PWU, JEFFREY C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943,511

Applicant(s)

MOCHIZUKI ET AL.

Examiner

Jeffrey C. Pwu

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10,11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10,11,13 and 14 is/are rejected.
- 7) ☒ Claim(s) 15-17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-8, 10, 11, and 13-17 rejected under 35 U.S.C. 102(b) as being anticipated by Kitai et al. (U.S. 5,948,069).

Kitai et al discloses a communication path control method in a communication network comprising first and second communication equipment connected through a plurality of communication networks belonging to different telecommunication companies, a network controller connected to each of said first and second communication equipment for selectively setting private communication paths on said communication networks, and a server (3000) for supplying network control information instructing said network controller to set a private communication path on one of said communication networks, said network controller selectively supplying communication path control information generated based on said network control information to said first and second communication equipment, said communication path control method comprising the steps of: (see both "ABSTRACT" and "SUMMARY OF THE INVENTION")

- storing a plurality of information entries (col.6, lines 48-55) each indicative of definition of a communication path and communication service provided by each of said telecommunication companies through said communication networks into said server;
- receiving, by said server, a communication service request issued from a user terminal connected to one of said first and second communication equipment, said communication service request designating specifications of a private communication path to be secured for the user terminal; (col.5, lines 30-65)
- retrieving, by said server, at least one information entry defining a communication path and communication service that matches said communication service request, specifying a communication path defined by the retrieved information entry as an available path for the user terminal if the communication path can satisfy said communication service request, and specifying a combination of communication paths defined by at least two information entries as the available path if no single information entry matches said communication service request and the combination of communication paths can satisfy said communication service request; (col.6. lines 19-64)
- notifying said user terminal of information as to the available path by said server; (col.6, line 64-col.7, line 55)

- transmitting network control information generated based on said communication service request and a definition information of said available path from said server to said network controller in response to a notification of agreement to the available path from said user terminal, thereby securing for the user terminal at least one communication path between said first and second communication equipment as the private communication path; (col.6, lines 37-65)

- wherein each of said information entries includes, as said definition of communication service information indicative of bandwidth of the communication path available on the communication network; ("Numerals 9001 to 9015 represent instructions of the program to be executed by the server 3000 and 9050 to 9061 represent instructions of the program to be executed by the client 3101. The server 3000 performs generation of a socket (9002) and addressing of the socket, and thereafter, waits for a request for establishing a connection from any client (9004) in accordance with a listen() call (9007). The client 3101 generates a socket (9053) and thereafter, specifies net1.19 (9051) which is one of the network addresses of the server 3000 (9055) to request establishing a connection with the server in accordance with a connect() call (9058). When establishing a connection with the server is requested, the QOS of the communication path is specified (9057). The QOS, as shown in 9052, includes the following three items: service class, peak bandwidth (Mbps), and average band width (Mbps). The service class includes the following three types: BE (Best Effort), GB (Guaranteed Burst), and GS (Guaranteed Stream). BE is a normal data communication, in which data throughput changes with the congestion degree of the communication path. GB is a data communication for burst

transfer, which guarantees the throughput for burst transfer as much as possible. GB also makes it possible to change the reservations of bandwidths before starting burst transfer. GS is a stream data communication for video data or audio data, which guarantees a previously secured bandwidth. It also makes it possible to turn off service class designation.”)

- wherein each said information entries includes, as said definition of said communication service, information indicative of quality of communication service available on the communication network (fig.1, “QOS control table”; fig.9, 4030)
- wherein said communication service request includes information indicative of bandwidth of a private communication path to be secured for a user terminal; and (fig.3, 3000, 3300, 3400, 3060-PBX, client 1, client 2, client 3, client 4)
- transmitting information indicative of definition of communication service to be offered between a first and second communication equipment by each of said communication service providers from each of management terminals associated with said communication service providers to an assistant server connected to said network controller. (col.5, lines 30-65)

Allowable Subject Matter

3. Claims 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 3-8, 10, 11, and 13-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



June 21, 2005

JEFFREY PWU
PRIMARY EXAMINER